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APRIL 2022

REVERSING THE WAR ON DRUGS IN TEXAS

PRIORITIZING REAL PUBLIC HEALTH AND SAFETY FOR TEXANS

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Texas Center for Justice & Equity
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WHAT WE TALK ABOUT WHEN WE TALK ABOUT DRUGS

There is widespread understanding that the War on Drugs intentionally targeted communities of color. Following the enactment of the Civil Rights Act of 1964, the (old) Jim Crow Era ended, but communities of color continued to see the race-based policies inherent in the drug war being utilized to intentionally harm them.[1] One way that Texas can rectify the mistakes of the past and end the perpetuation of legislated racism is by reversing the War on Drugs and its destructive consequences. To do so, Texas must begin to dispel outdated myths about drug use, and instead implement appropriate, evidence-based approaches to harm reduction for drug use.

BUSTING MYTHS ABOUT DRUG USE

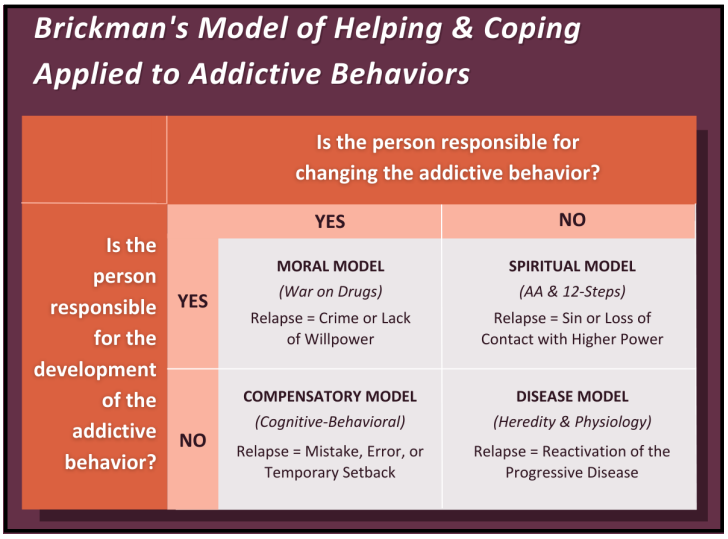
Addiction: Choice or Disorder?

The old narratives about drug use that fueled the War on Drugs and campaigns like "Just Say No" were not rooted in evidence-based research, but in perceptions of addiction as a choice or an individual moral failing, and later in an agreement that addiction must be the result of a disease.[2]

However, while there are only subtle differences between a disease and a disorder, naming addiction as a disease attributes behaviors to genetic factors wholly outside of one's control, rather than considering the social and environmental factors that led to the development of disordered substance use or addiction—factors that can be addressed both through an individual's changed behavior and through systemic change targeting the underlying causes of substance use.[3]

Brickman's Model of Helping and Coping Applied to Addictive Behaviors provides insight into perceptions of addiction. Research leans toward the Compensatory Model being more accurate than the Moral Model when evaluating addiction; the Compensatory Model acknowledges addiction as something that the affected person has the responsibility to change but notes that the person is not responsible for the development of the disorder.[4]

Taking a science-based approach to the narratives we weave about addiction and Substance Use Disorder will not only free people of the shame and stigma that may accompany their substance use, but it will empower them to access resources to address their needs.



Everyone is Doing It...Seriously

Public perceptions of drug users are based on vast misrepresentations. In actuality:

- Despite the fact that Black people and other people of color are overrepresented in the criminalization of drug use, data reveals that white people indeed use substances at similar rates.[5]

- While Texas-specific data can be challenging to capture, the National Center for Drug Abuse Statistics estimates that 230.5 million—or a whopping *70 percent* of Americans aged 12 years or older—use substances regularly (i.e., within the last 30 days), including tobacco and alcohol.[6]

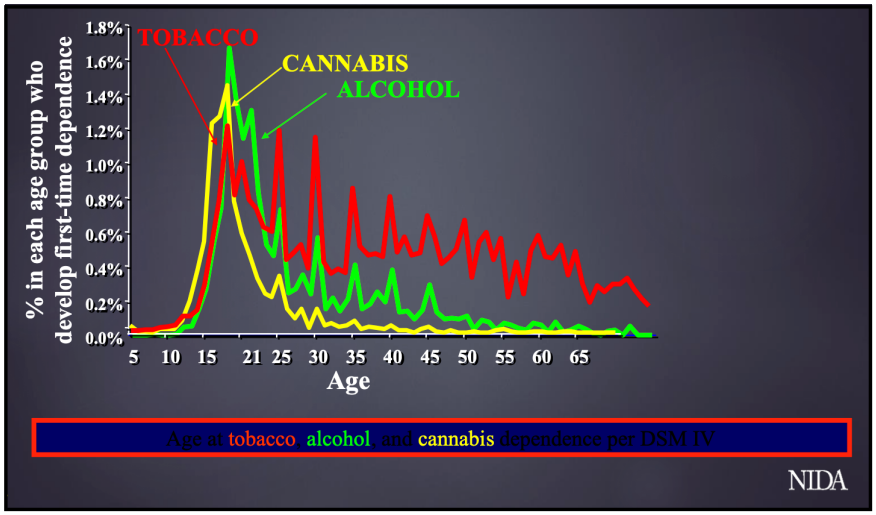
- Very few drug users engage in problematic drug use that negatively impacts their functionality or daily lives. Instead, the vast majority of drug use is episodic, circumstantial, transient, and non-problematic.[7] The average drug user, then, is often young, and someone who will age out of that usage as social circumstances change *(see the graph below)*.[8] Only about 10 percent of drug users will ever experience a Substance Use Disorder (SUD) or addiction.[9] And people with SUD are far more likely than the general population to have experienced Adverse Childhood Experiences and/or co-occurring mental health disorders.[10]

The majority of people in the United States choose to engage in recreational and medical substance use, so it is time to end the stigma and shift the narrative about substance users.

"The evidence tells us that we must look beyond the drug itself when trying to help people with drug addiction. In fact, regarding the relatively small percentage of individuals who do become addicted, co-occurring psychiatric disorders — such as excessive anxiety, depression, and schizophrenia — and socioeconomic factors — such as resource-deprived communities and un- and underemployment — account for a substantial proportion of these addictions."
Dr. Carl Hart, Columbia University

Just Say No?

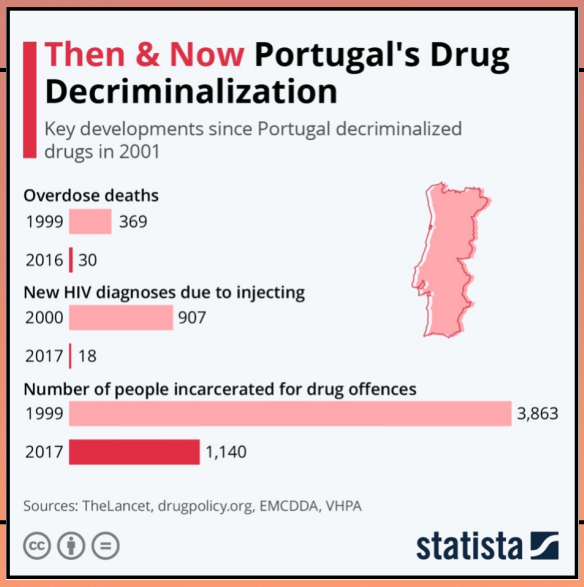
If we acknowledge that most people will either age out of non-addictive drug use or experience it without significant negative impact on their lives, then we must confront the assumption that drug use is something from which one should necessarily abstain, or that the government should prohibit it. The end of alcohol prohibition and the ensuing public safety controls for its usage proved to be a far more effective strategy for addressing substance use. This evidence-based approach is currently being implemented and analyzed in Portugal.



CASE STUDY:
DECRIMINALIZATION IN PORTUGAL–AND ITS IMPACT ON OREGON

During the 1990's, an estimated 1 percent of the Portuguese population was addicted to heroin, and Portugal had the highest rate of HIV infection in the European Union. The country's initial response to controlling drug use had been to criminalize it, like in the U.S. However, in 2001, Portugal became the first country in the world to decriminalize the consumption of all drugs. **It decided that it would approach drug addiction as a medical issue rather than a criminal problem.**

Now two decades later, Portugal has seen its drug-induced death rate plummet to five times lower than the E.U.'s average; that rate stands at *one-fiftieth* of the United States' rate. And drug use has declined overall among the 15- to 24-year-old population. Furthermore, Portugal's rate of HIV infection dropped from 104.2 new cases per million in 2000 to 4.2 cases per million in 2015. The country has focused on a judgment-free approach while ensuring that its people's relationship with drugs is healthy. By eliminating the threat of criminal penalties for drug use—and, along with it, the associated stigma—it has become easier for people to seek treatment. Between 1998 and 2011 alone, the number of people in drug treatment increased by over 60 percent; nearly three-quarters received opioid-substitution therapy.[11] *See the chart below for improvements between 1999 and 2017.*



In 2020, through Ballot Measure 110, Oregon became the first state in the U.S. to decriminalize the personal possession of all drugs and, instead, create a civil violation of $100. With an approach to drug use influenced by Portugal's, the state now allows a person to complete a health assessment via an addiction recovery center in lieu of paying the $100 citation, emphasizing care.[12] As a result of the measure, the state also has greater capacity to put funding toward addiction treatment—particularly evidence-based approaches like medications for opioid addiction and needle exchanges, similar to Portugal.[13] In effect, the measure took a two-pronged approach to drug decriminalization: (1) trying to eliminate the criminal legal system's role in simple drug possession, and (2) shifting the issue to a public health response by facilitating health assessments, and by directing more funds to addiction treatment and harm reduction services.[14]

THE DEVASTATING CONSEQUENCES OF RACIST AND FEELINGS-BASED DRUG POLICY

For far too long, Texas lawmakers have based drug policy on a Moral Model, which assumes that drug use and addiction are inherently wrong, despite overwhelming evidence to the contrary. This Model has been exacerbated by the racial bias that has undergirded myths about drug users, and it has resulted in the disparate application of penalties for drug use and possession.[15]

Texas' race- and feeling-based policymaking has created devastating consequences for millions of residents, some of whom already face extreme disparities and oppression from various systems, as highlighted below.

The War on Drugs: A Driver of Over-Policing and Mass Incarceration–With Long-Term Collateral Consequences

In 2019, nearly 700,000 arrests were made in Texas—128,000 for drug violations alone.[16] (Note that these numbers fell to 530,000 and 89,000, respectively, in 2020,[17] though fewer arrests can be attributed to COVID-19; it is anticipated that this may be an anomaly.) Still, tens of thousands of annual drug arrests point both to Texas' over-criminalization of drug use and the lack of community supports available to help people seeking treatment.

Over-policing is a specific factor driving mass incarceration and is most prevalent in more socially vulnerable communities. People who have been arrested multiple times are disproportionately Black or other people of color, as well as lower income, less educated, and under-employed compared to white people, despite the fact that Black people are no more likely to use or sell drugs than white people.[18]

CASE STUDY: OVER-POLICING AND THE WAR ON DRUGS IN TRAVIS COUNTY (AUSTIN)

As Travis County saw an increase in the number of low-level drug possession cases (with a 43 percent increase in cases during the 5-year period between 2013 and 2017), the Texas Center for Justice and Equity sought to take a deeper dive and ultimately launched a storyboard that mapped the locations of drug possession arrests filed between June 2017 and May 2018. The storyboard overlays neighborhood boundaries and data on economic and social vulnerabilities (fewer jobs, lower education levels, more renters, less access to health insurance) to help better explain the underlying issues driving system involvement. It reveals that in "hot spots" where police were saturated, neighborhoods often lacked economic opportunity and social supports, making it more likely that residents would enter the criminal legal system and more difficult for them to escape the cycle of criminalization and poverty. The storyboard also reveals that most people were arrested for drug possession in a neighborhood *outside* of where they lived; they purchased drugs in neighborhoods that were more heavily monitored by police—neighborhoods caught between the twin pressures of the drug trade and greater police activity—which caused the people who lived there to be arrested more often for other low-level criminalized behaviors. A key takeaway: The people living in a certain neighborhood may not be the ones buying drugs, but they will face the many consequences of the War on Drugs.[19]

The high number of drug arrests in Texas can also be attributed to the inadequate treatment infrastructure throughout the state. Low-income people with Substance Use Disorder must wait weeks for intensive residential, outpatient, and medication-assisted treatment.[20] People in need of co-occurring psychiatric and substance abuse treatment also must wait weeks for specialized services. The collateral consequences of arresting and incarcerating a person for a drug offense ripple far and wide through the community. Even being detained for a few days in a local jail can have life-changing impacts on a person's housing, education, employment, and family. The latter causes generational harm: Research points to significantly worse outcomes for the children of parents who are incarcerated, from negative behavioral and educational outcomes to an increased risk of future incarceration.

The War on Drugs: Impact on Already Marginalized Youth

The War on Drugs has had significant effects on youth in Texas. Texas has the 29th highest youth incarceration rate[23] while being ranked 46th out of 50 states in overall child well-being.[24] Policymakers have prioritized investments in criminalization and incarceration over investments in basic necessities for children and their families. While the overall youth incarceration rate has been declining both nationwide and in Texas, the number of children being charged and removed from their classrooms has risen due to use and possession of drugs, namely vape pens. Vape pens have become a popular tool for cannabis consumption in the form of concentrated THC, a classification that carries a felony drug charge. Because Texas, like many other states, has implemented "zero tolerance" policies for certain offenses, school administrators are required to suspend or expel students for most drug offenses. When a student is expelled in Texas, they are required to attend Juvenile Justice Alternative Education Programs (JJAEPs), which are often prison-like education facilities overseen by the local juvenile probation department. JJAEPs do not offer an adequate educational environment for students and are often the first stop on the school-to-prison pipeline for many students. In the 2018-19 school year, JJAEP attendance days rose 40 percent; they rose 22 percent in the 2019-20 school year, due mainly to vaping THC oil.[25]

Students of color are usually the target of exclusionary discipline policies. In the 2018-19 school year, Hispanic students represented 52 percent of the public-school enrollment in Texas, while 55 percent of Hispanic students were assigned to JJAEPs;[26] 25 Black students represented 12 percent of the public school enrollment in Texas, while 23 percent of Black students were assigned to JJAEPs.[27] Alarmingly, exclusionary discipline of any kind has not shown to reduce infractions like drug use. Instead, expulsion and displacement of students from their normal classroom has negative effects on their social-emotional development, and it increases the likelihood of future expulsion and/or justice system involvement.[28]

We must also acknowledge that LGBTQ youth are significantly over-represented in the juvenile justice system, largely due to the fact that they are rejected by peers and/or family members, leading them into criminalized behaviors, such as drug use. Researchers estimate that 20 percent of youth in the juvenile justice system are lesbian, gay, bisexual, questioning, gender nonconforming, or transgender compared with 4-6 percent of youth in the general population.[29]

The War on Drugs: Impact on Women

Women in Texas are uniquely harmed by the failed War on Drugs. Despite overall declining trends in most areas of crime both nationwide and in Texas, and despite the fact that men are still incarcerated at disproportionate rates

compared to women, the female incarceration rate is *growing* at a faster rate than men, largely due to drug offenses. While we are awaiting the response to a data request submitted to the Texas Department of Criminal Justice in 2021, we know that female incarceration in Texas prisons increased 908 percent from 1980- 2016, compared to an increase in the male population of 396 percent. In other words, female incarceration in Texas increased at more than twice the rate of male incarceration over 40 years.[30]

Sadly, the rise in opioid use has contributed to women's system involvement. Women are more likely than men to suffer from more than one chronic pain condition, and studies have shown that women experience more intense and frequent pain than their male counterparts. Women are more likely than men to be treated with prescription pain medication, such as opioids, at higher doses and for longer periods than men. As a result, women have become dependent on opioids at nearly twice the rate as men.[31]

Separately, many women have extensive trauma histories. In addition to the impact of this on the prevalence of drug use in women, they also face structural barriers in terms of poverty, sexism, gender-based violence, and discrimination, which can exacerbate reliance on self-medicating and create a vicious cycle leading to incarceration.[32]

The War on Drugs: Impact on People Living with Mental Health Needs and People with Intellectual and Developmental Disabilities (I/DDs)

Many believe that people with intellectual and/or developmental disabilities do not consume alcohol or use substances, which results in individuals with an I/DD being left out of the conversation around substance use. Research reveals that alcohol and illicit drug use is low in this population, but the risk of developing SUD is relatively high among I/DD substance users "due to impulsivity, increased risk of trauma, [and] possible lack of understanding about potential for abuse or consequences of use."[33] In other words, the War on Drugs does not exclude people with I/DDs.

People with I/DDs are less likely to have access to traditional preventative measures and treatment methods, due largely to the scarcity of evidence-supported practices to inform prevention and treatment for this population. Further, due to the lack of screening and formal assessment for SUD in I/DD patients, providers may not recognize the prevalence of substance use among people with I/DD. Only when mental health providers adequately screen for substance use will we increase access to tailored SUD treatment for people with I/DD, improve their coping and emotional skills, and promote adequate social supports and community integration.[34]

While it is notoriously difficult to obtain data for people living with an I/DD,[35] the limited information available tells us that within Texas, people who have been arrested on multiple occasions are three times more likely to have a serious mental illness and/or report serious psychological distress than people with no arrests in the past year, revealing that punishment rather than support is a failing strategy for addressing the needs of this population. Additionally, The Arc of Texas estimates that 50 to 80 percent of police encounters involve people with some type of disability, and that misunderstanding, misinterpretation, and exclusion from evidence-based therapies and preventive treatments can result in people with I/DDs entering the criminal legal system at higher rates than those without I/DDs.[36] Furthermore, due to the lack of supportive services for people with disabilities when entering the criminal legal system, professionals may be unaware of a disability, thus overlooking a person's need for accommodation and misinterpreting a person's presentation or actions. Sadly, given the state's inadequate treatment infrastructure, jails and prisons have long been Texas' largest mental health providers, leading to sometimes lethal consequences for people living with mental health and I/DDs.[37]

REVERSING THE WAR ON DRUGS: ADVANCING PUBLIC HEALTH AND SAFETY

"We are promised, all of us, at least three birthrights: life, liberty, and the pursuit of happiness. That means that we can live our life however we choose—including putting what we want in our bodies, as long as we don't bother anyone else, as long as we don't prevent other people from doing the same."
Dr. Carl Hart, Columbia University

PUBLIC HEALTH FAILURES IN TEXAS

As mentioned above, Texas has an inadequate infrastructure to assist people seeking treatment—meaning, people beyond casual drug users. In fact, the Commonwealth Fund ranked Texas 51st in access to and affordability of state health services in 2020.[38] This is a driver of criminal legal system involvement. Many people with a Substance Use Disorder (SUD) may also have a mental health disorder, and both have a significant impact on the likelihood of interacting with the system.

Adults with untreated mental health conditions are 8 times more likely to be incarcerated than the general population. Alarmingly, more than 3.3 million adults in Texas are living with a mental illness,[39] and when evaluating treatment for adults with mental health issues, Texas ranks 44th in receipt of treatment (with 61.7 percent of the relevant population receiving none).[40]

People struggling to get help are often already in vulnerable situations—living in poorer neighborhoods, having limited education, struggling with mental disabilities, and/or having been victims of physical and sexual violence.[41] Inability to access the necessary resources to get help only exacerbates these difficulties. And without available and affordable treatment services, many people will not receive help until they are entangled in the criminal legal system.

INSUFFICIENT AND HARMFUL PROGRAMMING IN TEXAS

There are tremendous benefits when people in addiction receive appropriate treatment. Bottom line, they are more likely to live a healthier life, with positive personal and community impacts; more specifically, those who complete drug treatment are 40-60 percent less likely to relapse, are less likely to commit another crime, and are 40 percent more likely to find a job.[42]

Unfortunately, while Texas does have state-funded substance use treatment programs, they are severely limited and treatment options are far more limited, and worse for people within the criminal legal system.

Competency Restoration

Texas' inadequate treatment services are failing people in local jails who are deemed incompetent to stand trial. While Texas Code of Criminal Procedure, Art. 16.23(a), directs law enforcement to divert people in mental health or SUD-related crisis to an appropriate treatment center in their jurisdiction, over 1,800 innocent people are languishing in jails awaiting treatment, simply at the mercy of the competency restoration waitlist. And indeed, the Texas Health and Human Services Commission is experiencing massive waitlists for a state hospital bed—growing from 730 people in 2018 to 1,838 by October 2021,[43] a 150 percent jump. This situation has led to in-jail deaths of people who have not been convicted of a crime. Tragically, these deaths are not tracked by the state (but by advocates and the media), which is an

insufficient method for studying the causes and implementing meaningful prevention strategies.[44]

In-Prison Treatment Programs

In terms of in-prison treatment services for people who live with SUD and co-occurring mental health disorders, the treatment results are no more encouraging. For instance, Texas relies heavily on the Substance Abuse Felony Punishment (SAFP) program, created in 1992, for in-prison substance use treatment. This program provides six to nine months of intensive drug and alcohol treatment, followed by three or more months of aftercare. Texas invests $50 million per year in SAFP programs, despite the overwhelmingly high recidivism rate of 42.2 percent, a rate higher than re-incarceration rates following felony community supervision, prison, state jail, Intermediate Sanction Facilities, and parole supervision.[45]

For many reasons, SAFP programming fails to successfully aid in rehabilitation. Most critically, despite being categorized as a therapeutic prison-alternative, SAFP facilities are prison-like environments, which are inherently counterproductive to the goals of rehabilitation,[46] and there is no evidence that the programming is trauma-informed or evidence-based. Additionally, mandated treatment programs like SAFP are rooted in abstinence models. Given that relapse is a well-documented part of the recovery process,[47] these treatment programs do not take the full recovery process into account. Moreover, they force people to receive treatment when they may not want or even necessarily need it, further decreasing the likelihood of success.

While SAFP has been regarded as the "largest, most intensive, and most expensive" program that the Texas Department of Criminal Justice offers for substance abuse treatment,[48] SAFP programming has not been independently reviewed since 2001, likely meaning that the methods and practices in treatment are out of date.[49] The curriculum for SAFP programs is not published, making it unclear if the program meets statutory requirements or even basic research-based standards.

SAFP Program Failures

The Texas Center for Justice and Equity interviewed 26 past participants in the SAFP program, finding:

1 - Clients were more engaged in substance use treatment when they were receiving clinical therapeutic services from counselors who seemed invested in their recovery–but that happened infrequently.

2 - Long periods of non-therapeutic-focused programming (like sitting in chairs for up to 14 hours per day) led clients to feel like they were missing out on opportunities to concentrate on personal rehabilitation.

3 - The SAFP curriculum lacks a trauma-informed, intersectional approach to treatment.

4 - The transition from the SAFP program to transitional housing is abrupt, and clients feel unprepared to reenter society.

"Layers of Trauma, Layers of Treatment: Using Participant Experiences to Reform Texas' In-Prison Substance Use Treatment Program," 2021

State Jails

Texas' state jail system is another example of failed programming to combat illicit drug use. The state jail system was created in 1994 to serve as an alternative to the state's prison system—emphasizing rehabilitative programming for low-level felonies rather than lengthy incarceration.[50] This vision has failed. State jail felonies consist of offenses as minor as possession of less than a gram of a controlled substance, the equivalent of a sugar packet. People convicted of a state jail felony face 180 days to 2 years in a state jail facility, with fines of up to $10,000.[51] People must serve day for day with no opportunity for early release, and most facilities fail to provide treatment and rehabilitation. Ultimately, the state jail system has the highest rearrest rate of all correctional programs: 63 percent of people released from state jail are rearrested within three years of release, compared to 48 percent of people released from prison.[52]

POLICY RECOMMENDATIONS

Not only does Texas unnecessarily over-criminalize recreational drug use with devastating consequences, but its approach to addressing Substance Use Disorder—from punishment, to abstinence, to lack of adequate support—is failing Texans and costing lives. State and local decision-makers must take crucial steps to implement viable, effective programs and strategies that focus on meeting people's needs.

1) DECRIMINALIZE DRUG USE: END CRIMINAL PENALTIES AND BOOKINGS FOR MOST DRUG OFFENSES

Drug use is not inherently wrong, nor is it an inherent risk to public safety. Criminalizing Texans' ability to choose what they put in their bodies only creates harm, ruins lives, and costs the state and local taxpayers money. The Texas Legislature should begin walking back the harms of the War on Drugs by taking bold action to remove criminal penalties for drug use and possession.

As a first step toward this vision, lawmakers should enact policies that bring an end to bookings for Class C misdemeanors and citation-eligible offenses, like possession of marijuana and possession of drug paraphernalia.

"Small possession of marijuana is not the type of violation that we want to stockpile jails with."
Texas Governor Greg Abbott, January 10, 2022

Decriminalizing drug paraphernalia will be especially critical to advancing harm reduction programs that can help keep Texans healthy and safe. Current law not only prevents the implementation of programs like syringe exchanges but also leads to harmful criminal records, which carry long-term, negative consequences for people's employment, housing, and other resources that promote stability and wellness. *[See more on harm reduction in Recommendation 3.]*

2) PHASE OUT THE USE OF STATE JAILS AND SUBSTANCE ABUSE FELONY PUNISHMENT (SAFP) PROGRAMS

In 2019, Texas' state jail system housed more than 15,000 people, approximately 43 percent of whom were serving time for possession of less than a gram of a controlled substance.[53] The state jail system wastes money incarcerating people in possession of a personal-use amount of substances, while funding could instead be allocated to harm reduction and community efforts. In 2017, the Texas Legislature passed Senate Bill 292, which created a mental health matching grant program to reduce recidivism, arrests, and incarceration among people with mental illness and Substance Use Disorder.[54] The Texas Legislature should expand this and other health care models in efforts to replace the state jail system and bolster local, evidence-based treatment programming.

Additionally, state lawmakers should rethink SAPF programs, where more than 6,000 people are sent every year.[55] To help people get true rehabilitative support, leadership should begin eliminating beds and shift the savings to treatment options in the community, including dual-diagnosis programs at community treatment facilities, virtual outpatient programs for defendants in rural areas, or Oxford Housing and other individualized treatment centers that allow people to maintain autonomy.

3) IMPLEMENT HARM REDUCTION STRATEGIES

The primary goal of harm reduction is to keep people alive and encourage positive change in their lives. It refers to policies, programs, and practices that aim to minimize negative health,

social, and legal impacts associated with drug use and drug policies. Harm reduction is grounded in dignity, justice, and human rights—working with people without judgment, coercion, or discrimination, and without requiring them to stop using as a condition of support. Numerous studies confirm that harm reduction prevents overdose; prevents diseases such as HIV, viral hepatitis, and tuberculosis; and supports recovery for those who seek it.[56]

Yet still, harm reduction and access to harm reduction methods have become a controversial topic; some people believe that harm reduction actively encourages people to continue to use drugs—but people will always use drugs for recreation and for self-medication, particularly when they do not have access to the appropriate resources. Also problematic, Texas has a number of restrictive policies that have prevented communities from engaging in harm reduction.

Given that harm reduction strategies are based in the interest of public health, Texas should adopt this approach—and shift from failed deterrence and abstinence-based approaches to drug use and addiction. Substance use researchers and justice organizations like Drug Policy Alliance and Texas Harm Reduction Alliance promote various strategies, some of which are listed below.

We urge the Texas Legislature to allocate funding to these strategies in the next legislative session:

Syringe Programs

In 2018, the Bexar County (San Antonio) Commissioners Court approved $80,000 in its fiscal year 2019-20 budget for the state's first needle exchange program, mainly to be used for the purchase of harm reduction kits—syringes, saline solution, cotton balls, and alcohol swabs—to give to local nonprofits, health care providers, and helping organizations for distribution to drug users.[57]

According to UT Health San Antonio in 2022, one local organization, Corazón San Antonio, has served 2,900 people and has saved 90 lives with NARCAN, a nasal spray used to reverse an opioid overdose.[58] Corazón San Antonio's harm reduction effort is a two-year pilot program funded by a $780,000 grant from UT Health San Antonio through the Bexar County Harm Reduction Initiative and other federal funding.[59] Programs like these should continue to be allowed and expanded without the threat of prosecution or arrest for drug paraphernalia.

Drug Testing

Limited quality controls exist for illegal drug manufacturing, which can lead to drugs that include chemicals or other adulterants that are far more harmful than the drugs themselves.[60] One example can be seen in the recent rise in fentanyl-laced drug products, which has caused accidental overdoses across the country. Texas saw 658 synthetic opioid deaths from 2019 to 2020, a number that more than doubled to 1,482 the following year.[61]

"We need to provide harm-reduction strategies like naloxone, like sterile syringe access, like fentanyl test strips—so that people can identify potent drugs in their supply. We need to provide those strategies to people who are not interested in treatment—are not ready for it yet."[62] **Dr. Lucas Hill, Pharm.D, associate professor at UT Austin College of Pharmacy**

After legalizing substances, the Texas Legislature should implement quality controls in drug manufacturing, as well as utilize resources like the Opioid Abatement Fund to ensure access to drug testing equipment and, at the very least, allow the wide-scale use of this equipment to prevent overdose and harm.

Evidence-Based Education Around Substance Use

Texas, like many states, relies on a debunked drug education model for students, with a perspective

rooted in abstinence.[63] Relying on an abstinence-only model creates risks to the safety of students, who will continue to use substances regardless of any prohibition. Instead, substance use education should be rooted in harm reduction strategies; it should be comprehensive and address ways to limit drug use and keep students safe, including by avoiding harmful and/or adulterated substances, and it should provide strategies to prevent and address overdoses. Young people should be given the tools they need to make safe and healthy choices.

Expanded Good Samaritan Law

In 2020, more than 93,000 people died of a drug overdose in the U.S., a record number that reflects a rise of nearly 30 percent from 2019.[64] Texas has seen a steady rise in overdose deaths over the last decade, from 2,579 deaths in 2015 to the provisional estimated 4,718 deaths in 2021.[65] These deaths are preventable, but the lack of certain policies—like a meaningful Good Samaritan law—has made it nearly impossible for people in an emergency to get needed help. In 2021, the Texas Legislature passed House Bill 1694, a Good Samaritan law that fails to provide the meaningful support needed, as it excludes protections for people who either have a felony record or have called 9-1-1 for an overdose in the preceding 18 months.[66] An effective Good Samaritan law should provide protection from prosecution for drug offenses to all 9-1-1 callers requesting emergency assistance for a suspected overdose.

4) EXPAND HEALTH CARE ACCESS

The lack of access to health care has negative consequences for Texans, especially those experiencing Substance Use Disorder. Making routine medical treatments more affordable and attainable will give more people the opportunity to live a safe and healthy life.

This can also reduce instances of self-medication with illicit substances, allowing people to access necessary treatment, if they so choose.

Expand Medicaid

Along with expansions to existing Substance Use Disorder and mental health treatment services, Texas should expand access to Medicaid coverage for low-income adults through the Affordable Care Act, which will allow people to access health care services and treatment that they otherwise could not afford.

Increase Access to NARCAN

Naloxone, or NARCAN, is a medicine that rapidly reverses an opioid overdose. Naloxone can quickly restore normal breathing in a person whose breathing has slowed or stopped because of an opioid overdose. Texas has made Naloxone available at local pharmacies, but the cost of NARCAN can be a deterrent for community members, given that it can retail for upwards of $100.[67] Texas should make NARCAN readily available to people regardless of their ability to afford the medication.

Increase Access to Medicated-Assisted Treatment (MAT)

MAT involves the use of medications, in combination with counseling and behavioral therapies, to provide a “whole-patient” approach to the treatment of Substance Use Disorder. Stigma and funding are cited as the two biggest barriers to MAT access, both for justice system-involved clients and for opioid users generally. Public and political skepticism toward MAT remains an obstacle to securing needed funding and connecting justice system-involved individuals with these services. Funding is even challenging despite recent federal and state opioid response efforts that have increased MAT availability. But most problematically, the state reimbursement rates for MAT providers are too low to be economically viable, often not covering the full cost of service provision.[68] Texas leaders should improve reimbursement rates to make this a viable resource for people in need.

5) ENACT AND EXPAND JUSTICE AND COMMUNITY REINVESTMENT INITIATIVES

Despite overall decreases in most crime and incarceration nationwide, state spending on corrections and policing continues to skyrocket.[69] To better utilize state and local funds, some researchers and advocates have been pushing a reinvestment model for over a decade. Indeed, since 2010, national investment and interest has grown around a data-driven solution to enhancing public safety: Justice Reinvestment Initiatives (JRIs) and Community Reinvestment Funds (CRFs). These strategies seek to manage and save costs associated with the corrections system by shrinking its impact, then redeploying savings to agencies and community-based programs that serve to prevent and address the root causes of crime. As a result of Texas' past reliance of data-driven JRI in 2007, Texas was able to create much of the capacity for mental health and Substance Use Disorder treatment we have today. At the time, the state was forecasting an increase in the prison population of 17,000 people; it invested $241 million in treatment and diversion programs rather than fund prison facility construction, saving more than $1.5 billion and preventing the projected population increase.[70] The Texas Legislature should re-up on its commitment to these types of initiatives to enhance public safety and save lives.

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APRIL 2022

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